

## **REMARKS**

The Office Action dated October 15, 2008, has been received and carefully noted. The above amendments to the claims, and the following remarks, are submitted as a full and complete response thereto.

### **Status of the Claims**

Claims 1, 2, 4, 7, 9-13, 16, 17 and 19-21 have been amended to more particularly point out and distinctly claim the subject matter of the invention. No new matter has been added. Claims 1-21 are currently pending in the Application and are respectfully submitted for consideration.

### **Allowable Subject Matter**

Applicant notes with appreciation the Examiner's indication that claim 12 would be allowable if rewritten in independent form. Claim 12 has been rewritten in independent form herein. Applicant kindly thanks the Examiner for the assistance. Applicant respectfully submits that the remaining claims are also allowable.

### **Rejection under 35 U.S.C. § 103**

Claims 1-11 and 13-21 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Pimentel (U.S. Publication No. 2003/0214970) in view of Arques et al. (U.S. Publication No. 2004/0131083). Applicant notes that Arques et al. is not prior art with respect to the present application. The only section of 35 U.S.C. § 102 under which the Arques et al. published application can potentially qualify as prior art with respect to the present application is 35 U.S.C. § 102(e). The Arques et al. published application

claims the priority of PCT/FR02/01012 as the U.S. publication of an International Application (IA). However, as can be seen from the attached flowchart and bibliographic data sheet, while PCT/FR02/01012 was filed after November 29, 2000, the IA was not published in English, but rather in French. As noted in the flowchart, a PCT application must **both** designate the U.S. **and** be published in English to provide a 102(e) date. As such, the Arques et al. published application has no 102(e) date and thus does not qualify as prior art with respect to the present application.

Accordingly, Applicant respectfully submits that the rejection is improper and must be withdrawn.

### **Conclusion**

For at least the reasons presented above, it is respectfully submitted that claims 1-11 and 13-21 are also allowable over the cited art. Accordingly, it is respectfully requested that the claims be allowed and the application be passed to issue.

If for any reason the Examiner determines that the application is not now in condition for allowance, it is respectfully requested that the Examiner contact, by telephone, Applicant's undersigned representative at the indicated telephone number to arrange for an interview to expedite the disposition of this application.

In the event this paper is not being timely filed, Applicant respectfully petitions for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account 50-2222.

Respectfully submitted,



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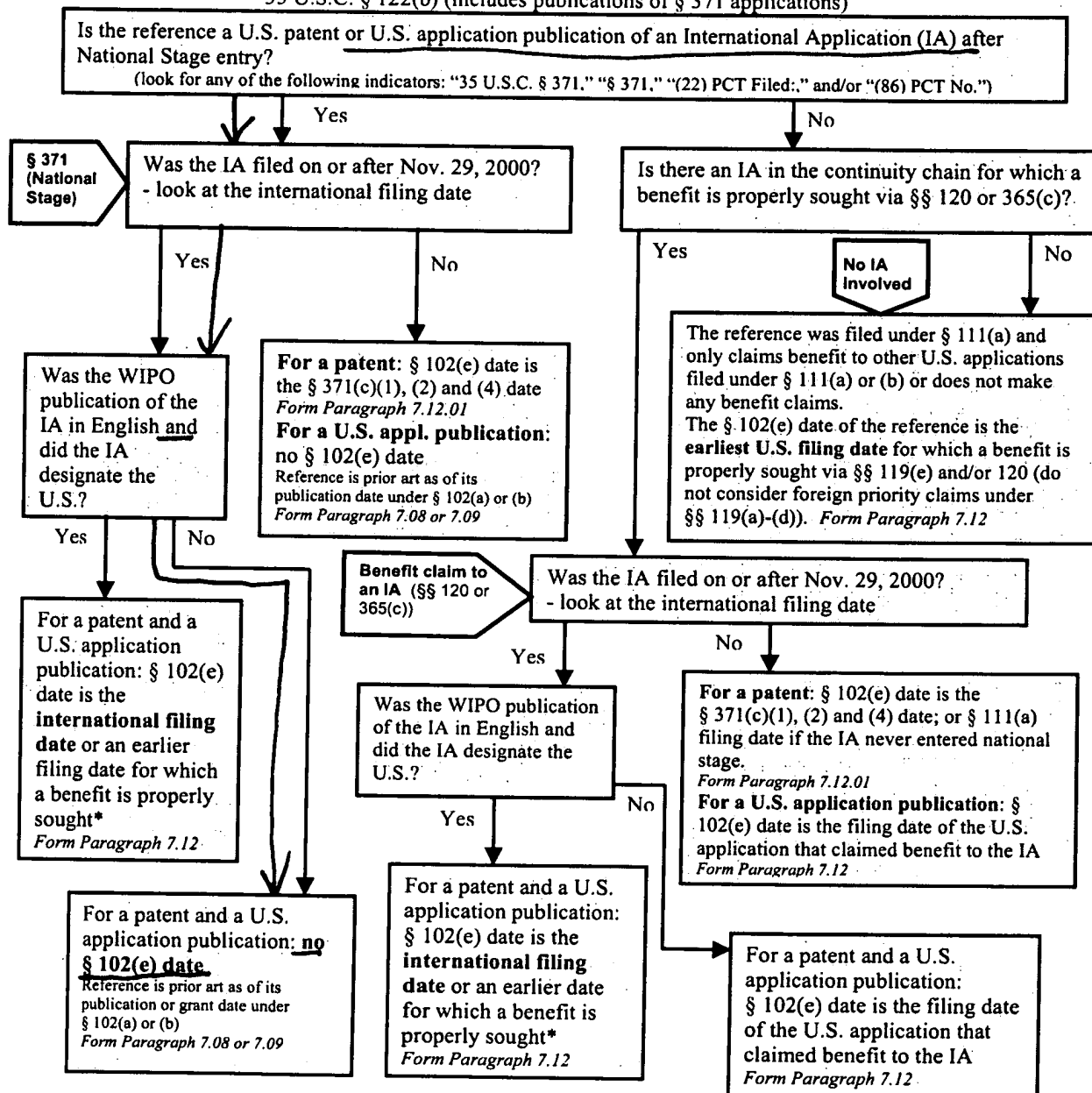
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Enclosures: 35 U.S.C. § 102(e) Flowchart from MPEP § 706.02(f)(1)(III)  
Bibliographic Data Sheet for PCT/FR02/01012  
Additional Claim Fee Transmittal

## III. FLOWCHARTS

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**FLOWCHARTS FOR 35 U.S.C. § 102(e) DATES:**  
**Apply to all applications and patents, whenever filed**  
**Chart I: For U.S. patent or U.S. patent application publication under**  
**35 U.S.C. § 122(b) (includes publications of § 371 applications)**



\* Consider benefit claims properly made under § 119(e) to U.S. provisional applications, § 120 to U.S. nonprovisional applications, and § 365(c) involving IAs. Do NOT consider foreign priority claims.



## (WO/2002/082748) METHOD FOR DATA TRANSMISSION BY A MOBILE STATION COMPRISING A MAXIMUM DATAGRAM SIZE (MDS) DETERMINATION

Biblio. Data	Description	Claims	National Phase	Notices	Documents
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Latest bibliographic data on file with the International Bureau



Pub. No.: WO/2002/082748 International Application No.: PCT/FR2002/001012  
 Publication Date: 17.10.2002 International Filing Date: 22.03.2002  
 Chapter 2 Demand Filed: 30.08.2002

IPC: H04L 12/56 (2006.01), H04L 29/08 (2006.01), H04Q 7/22 (2006.01)

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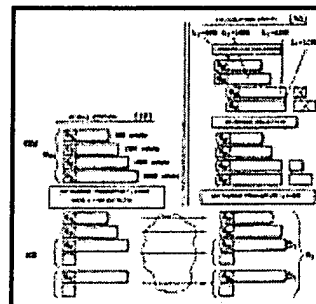
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Priority Data: 01/04828 09.04.2001 FR

Title: (EN) METHOD FOR DATA TRANSMISSION BY A MOBILE STATION COMPRISING A MAXIMUM DATAGRAM SIZE (MDS) DETERMINATION  
 (FR) PROCÉDE DE TRANSMISSION DE DONNEES PAR UNE STATION MOBILE COMPORTANT UNE ETAPE DE DETERMINATION DE LA MDS

Abstract: (EN) The invention concerns a data transmission method in accordance with a communication protocol from a mobile station (10) consisting of a smart card (SIM) associated with a mobile host equipment (ME), said protocol being organised in several layers including at least a data transport layer of the datagram type adapted to transmit integrally data packets (D) of a maximum size (MDS). The invention is characterised in that said transmission method comprises a step which consists, for the card (SIM), in determining the value of said maximum size of data packets (MDS) capable of being integrally transmitted by the transport layer of its mobile host equipment (ME).



(FR) L'invention concerne un procédé de transmission de données selon un protocole de communication à partir d'une station mobile (10) composée d'une carte à puce (SIM) associée à un équipement mobile (ME) hôte, ledit protocole étant organisé en plusieurs couches dont au moins une couche de transport de données de type datagramme apte à transmettre intégralement des paquets de données (D) d'une taille maximale (Maximum Datagram Size, MDS), caractérisé en ce que ledit procédé de transmission comporte une étape consistant, pour la carte (SIM), à déterminer la valeur de ladite taille maximale des paquets de données (MDS) pouvant être intégralement transmis par la couche de transport de son équipement mobile hôte (ME).

Designated States: AE, AG, AL, AM, AT, AU, AZ, BA, BB, BG, BR, BY, BZ, CA, CH, CN, CO, CR, CU, CZ, DE, DK, DM, DZ, EC, EE, ES, FI, GB, GD, GE, GH, GM, HR, HU, ID, IL, IN, IS, JP, KE, KG, KP, KR, KZ, LC, LK, LR, LS, LT, LU, LV, MA, MD, MG, MK, MN, MW, MX, MZ, NO, NZ, OM, PH, PL, PT, RO, RU, SD, SE, SG, SI, SK, SL, TJ, TM, TN, TR, TT, TZ, UA, UG, US, UZ, VN, YU, ZA, ZM, ZW.

African Regional Intellectual Property Org. (ARIPO) (GH, GM, KE, LS, MW, MZ, SD, SL, SZ, TZ, UG, ZM, ZW)  
Eurasian Patent Organization (EAPO) (AM, AZ, BY, KG, KZ, MD, RU, TJ, TM)  
European Patent Office (EPO) (AT, BE, CH, CY, DE, DK, ES, FI, FR, GB, GR, IE, IT, LU, MC, NL, PT, SE, TR)  
African Intellectual Property Organization (OAPI) (BF, BJ, CF, CG, CI, CM, GA, GN, GQ, GW, ML, MR, NE, SN, TD, TG).

**Publication Language:**

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